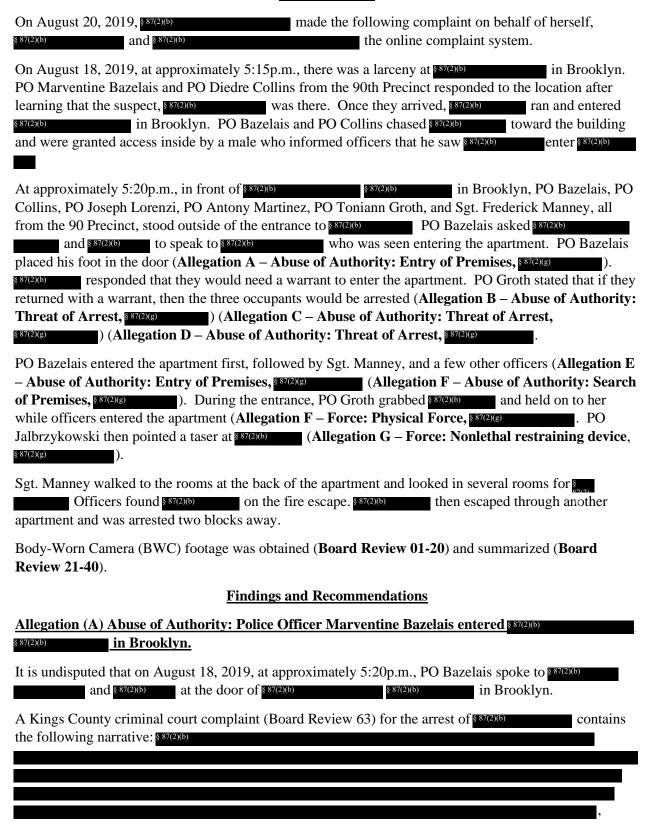
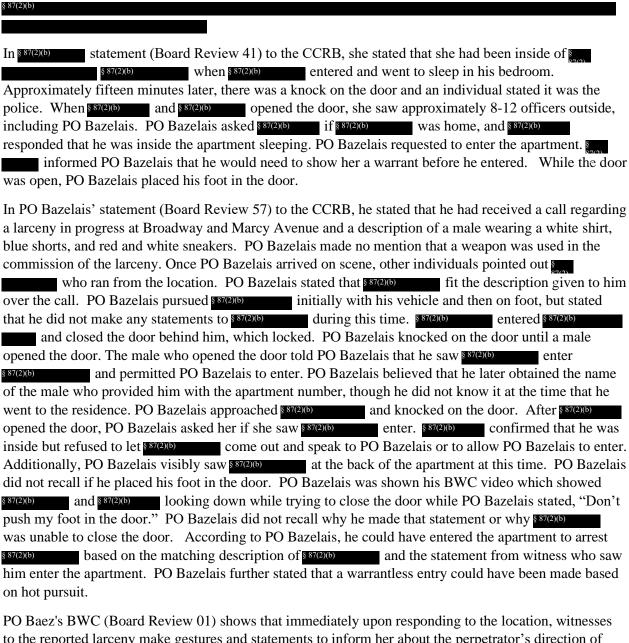
CCRB INVESTIGATIVE RECOMMENDATION

| Investigator: | | Team: | CCRB Case #: | ₩ F | Force | | Discourt. | ☐ U.S | S. |
|---|--|--|---|---------|------------|----------|-----------|--------|------|
| Shadman Khan | | Squad #12 | 201907401 | | Abuse | |).L. | ☐ Inj | ury |
| Incident Date(s) | | Location of Incident: | | Pr | ecinct: | 18 M | o. SOL | EO S | SOL |
| Sunday, 08/18/2019 5:00 PM | | § 87(2)(b) | 7(2)(b) | | 90 | 2/18 | 3/2021 | 10/5/2 | 2021 |
| Date/Time CV Reported | | CV Reported At: | How CV Reported | 1: I | Date/Time | Receive | ed at CCF | RB | |
| Tue, 08/20/2019 12:21 PM | | CCRB | On-line website | 1 | Γue, 08/20 |)/2019 1 | 12:21 PM | | |
| Complainant/Victim | Type | Home Addr | PSS | | | | | | |
| Complaniant, victim | Турс | | C55 | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Witness(es) | | Home Addr | ess | | | | | | |
| 111110000(00) | | | | | | | | | |
| Cubicat Officen(s) | Chiold | TorrID | Commond | | | | | | |
| Subject Officer(s) | Shield | TaxID | Command | | | | | | |
| 1. POM Marventine Bazelais | 18270 | 958300 | 090 PCT | | | | | | |
| 2. SGT Frederick Manney3. POF Toniann Groth | 04797 16687 | 949938 | 090 PCT C R C | | | | | | |
| | 21736 | 957645 959710 | 090 PCT | | | | | | |
| 4. POM Michal Jalbrzykowski | | | | | | | | | |
| Witness Officer(s) | Shield No | Tax No | Cmd Name | | | | | | |
| | | | | | | | | | |
| 1. POF Deirdre Collins | 00215 | 965998 | 090 PCT | | | | | | |
| 2. POM Paul Deguida | 09446 | 961731 | 090 PCT | | | | | | |
| 2. POM Paul Deguida3. POM Nicholas Weber | 09446 09839 | 961731 962160 | 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi | 09446 09839 09570 | 961731 962160 959769 | 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez | 09446 09839 09570 10515 | 961731 962160 959769 949260 | 090 PCT 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez | 09446 09839 09570 10515 02411 | 961731 962160 959769 | 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez | 09446 09839 09570 10515 02411 12351 | 961731 962160 959769 949260 965942 960232 | 090 PCT 090 PCT 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez POM Philippe Vukosa | 09446 09839 09570 10515 02411 | 961731 962160 959769 949260 965942 | 090 PCT 090 PCT 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez | 09446 09839 09570 10515 02411 12351 | 961731 962160 959769 949260 965942 960232 | 090 PCT 090 PCT 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez POM Philippe Vukosa POM John Wai POM Angelo Martino | 09446 09839 09570 10515 02411 12351 22128 | 961731 962160 959769 949260 965942 960232 953542 | 090 PCT 090 PCT 090 PCT 090 PCT 090 PCT 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez POM Philippe Vukosa POM John Wai POM Angelo Martino POM Albino Cazares | 09446 09839 09570 10515 02411 12351 22128 18630 23305 07512 | 961731 962160 959769 949260 965942 960232 953542 931391 | 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez POM Philippe Vukosa POM John Wai POM Angelo Martino | 09446 09839 09570 10515 02411 12351 22128 18630 23305 07512 | 961731 962160 959769 949260 965942 960232 953542 931391 964145 | 090 PCT | | | | | | |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez POM Philippe Vukosa POM John Wai POM Angelo Martino POM Albino Cazares | 09446 09839 09570 10515 02411 12351 22128 18630 23305 07512 | 961731 962160 959769 949260 965942 960232 953542 931391 964145 965684 964005 | 090 PCT | | Inve | estigato | or Recon | ımenda | tion |
| POM Paul Deguida POM Nicholas Weber POM Joseph Lorenzi POM Antony Martinez POM Jonathan Baez POF Cecely Beniquez POM Philippe Vukosa POM John Wai POM Angelo Martino POM Albino Cazares POM Jonathan Galindosanchez | 09446 09839 09570 10515 02411 12351 22128 18630 23305 07512 23267 | 961731 962160 959769 949260 965942 960232 953542 931391 964145 965684 964005 | 090 PCT | (570) | Inve | estigato | or Recon | nmenda | tion |
| 2. POM Paul Deguida 3. POM Nicholas Weber 4. POM Joseph Lorenzi 5. POM Antony Martinez 6. POM Jonathan Baez 7. POF Cecely Beniquez 8. POM Philippe Vukosa 9. POM John Wai 10. POM Angelo Martino 11. POM Albino Cazares 12. POM Jonathan Galindosanchez Officer(s) | 09446 09839 09570 10515 02411 12351 22128 18630 23305 07512 23267 Allegation | 961731 962160 959769 949260 965942 960232 953542 931391 964145 965684 964005 | 090 PCT | | Inve | estigato | or Recon | nmenda | tion |
| 2. POM Paul Deguida 3. POM Nicholas Weber 4. POM Joseph Lorenzi 5. POM Antony Martinez 6. POM Jonathan Baez 7. POF Cecely Beniquez 8. POM Philippe Vukosa 9. POM John Wai 10. POM Angelo Martino 11. POM Albino Cazares 12. POM Jonathan Galindosanchez Officer(s) A.POM Marventine Bazelais | 09446 09839 09570 10515 02411 12351 22128 18630 23305 07512 23267 Allegation Abuse: Po | 961731 962160 959769 949260 965942 960232 953542 931391 964145 965684 964005 | 090 PCT | arrest | Inve | estigato | or Recon | nmenda | tion |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------------|--|-----------------------------|
| E.SGT Frederick Manney | Abuse: Sgt. Manney entered \$87(2)(b) in Brooklyn. | |
| F.SGT Frederick Manney | Abuse: Sergeant Frederick Manney searched \$87(2)(b) in Brooklyn. | |
| G.POF Toniann Groth | Force: Police Officer Toniann Groth used physical force against \$87(2)(b) | |
| H.POM Michal Jalbrzykowski | Force: Police Officer Michal Jalbrzykowski pointed a taser against \$887(2)(b) | |

Case Summary





PO Baez's BWC (Board Review 01) shows that immediately upon responding to the location, witnesses to the reported larceny make gestures and statements to inform her about the perpetrator's direction of flight. While PO Baez runs in the indicated direction, it is unclear from the BWC whether she sees the fleeing perpetrator and the BWC does not depict her making any statements to the perpetrator. Other BWC footage, including that of PO Bazelais, does not depict a prior pursuit of the perpetrator.

PO Baez's BWC shows that at approximately 5:19 p.m. in the native timestamp, an unidentified female officer informs PO Baez that the perpetrator ran into PO Bazelais' BWC (Board Review 03) and PO Collins' BWC (Board Review 17) show they knocked on the apartment door at approximately 5:20 p.m. in the native timestamp. Assuming the clock is correct and synced with all the BWC videos, it appears that approximately one minute passed between the officers being informed of the alleged perpetrator's flight into the building and PO Bazelais arriving at the residence.

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PO Bazelais' BWC video (Board Review 03) begins with PO Bazelais and PO Collins approaching a building door that is closed and locked. The doors press buttons on the intercom and at 01m29s into the recording, a male in a white shirt opens the door and states, "\$\square\$\text{\$\sq\are\$\text{\$\sq\are\$\text{\$\sq\are\$\text{\$\square\$\text{

Event documentation (Board Review 62) shows that there were numerous calls to 911 by different individuals regarding this incident. At 5:15 p.m., an individual reported to 911 that a member of a civilian patrol was chasing a black male in a white tee-shirt in the vicinity of saccion that the black male was wanted for stealing, and that the black male had gone to the approximate time, another 911 caller reported that a black male wearing a white tee-shirt and grey pants had stolen a wallet. The caller did not know whether weapons were used. At 5:16 p.m., this caller reported that unspecified weapons were involved, and that he had been punched in the face.

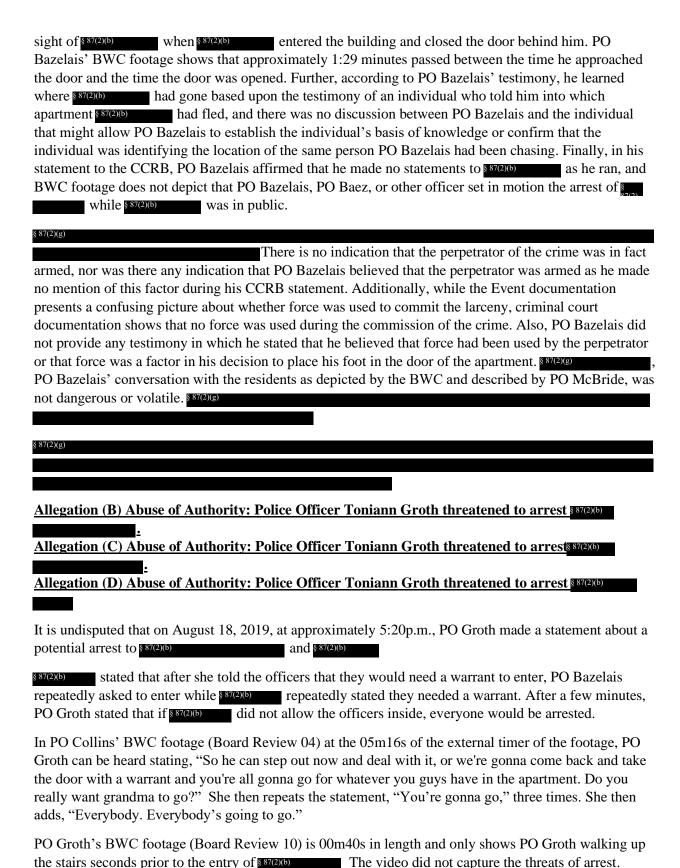
While \$87(2)(b) and PO Bazelais provided conflicting statements regarding the entry into the apartment, BWC footage from PO Bazelais appear to indicate that the alleged action did occur. Given that the footage showed \$87(2)(b) and \$87(2)(b) looking toward the floor stating, "We're going to close the door," and, "Excuse me," multiple times, \$87(2)(b) being unable to close the door, and PO Bazelais' statement, "Don't push my foot in the door", the investigation determined that PO Bazelais did enter \$87(2)(b) by placing his foot in the door.

All parties agree that PO Bazelais was not in possession of a search or arrest warrant at the time he entered \$\frac{87(2)(b)}{2}\$ in Brooklyn. Further, all parties agree that the residents of did not consent to PO Bazelais entering the residence. In the absence of a warrant, the investigation must determine whether PO Bazelais' entry could be justified by one of the accepted exceptions to the search warrant requirement.

In order for an officer to enter and search a private residence of a suspect they are in the process of chasing; they must meet the requirements of the hot pursuit and exigent circumstances doctrine. This includes a clear showing of probable cause to believe that the suspect committed the crime, strong reason to believe the suspect is in the premises being entered, and an immediate or continuous pursuit of a suspect from the scene of a crime. Additionally, the arrest must be set in motion in a public place. People v. Hunter 92A.D.3d 1277 (Board Review 57)

In <u>People v. McBride</u>, 59 A.D.3d 151, the court analyzed a scenario where officers went to the home of an individual that they had probable cause to arrest for armed robbery (Board Review 61). The court determined that police may enter a home to effect an arrest without a warrant if they have probable cause and exigent circumstances. In analyzing the entry, the court noted the importance of the following factors: the violent nature of the underlying offense, the knowledge of the police that the defendant was armed, the presence of probable cause, and evidence suggestive of a dangerous and highly volatile situation.

| § 87(2)(g) | |
|------------|---|
| | |
| | In his testimony to the CCRB, PO Bazelais admitted that he lost |



In PO Groth's statement (Board Review 42) to the CCRB, she stated that she recalled responding to the incident location, but not what occurred there. PO Groth did not recall telling civilians that she would arrest everyone if she had to return with a warrant. When presented with a photo of FS7(2)(b) PO Groth stated that she did not recall seeing her on the date of the incident. When PO Groth was presented with PO Collins BWC video footage of the incident, including the part where PO Groth made the above-noted statement regarding arrests, she confirmed that it was her voice on the footage.

According to statement, PO Groth stated the three of them would be arrested if the officers were not permitted into the apartment. While PO Groth did not independently recall the statement, PO Collin's BWC footage shows PO Groth stating everyone would go if a warrant was obtained and if anything was found in the apartment.

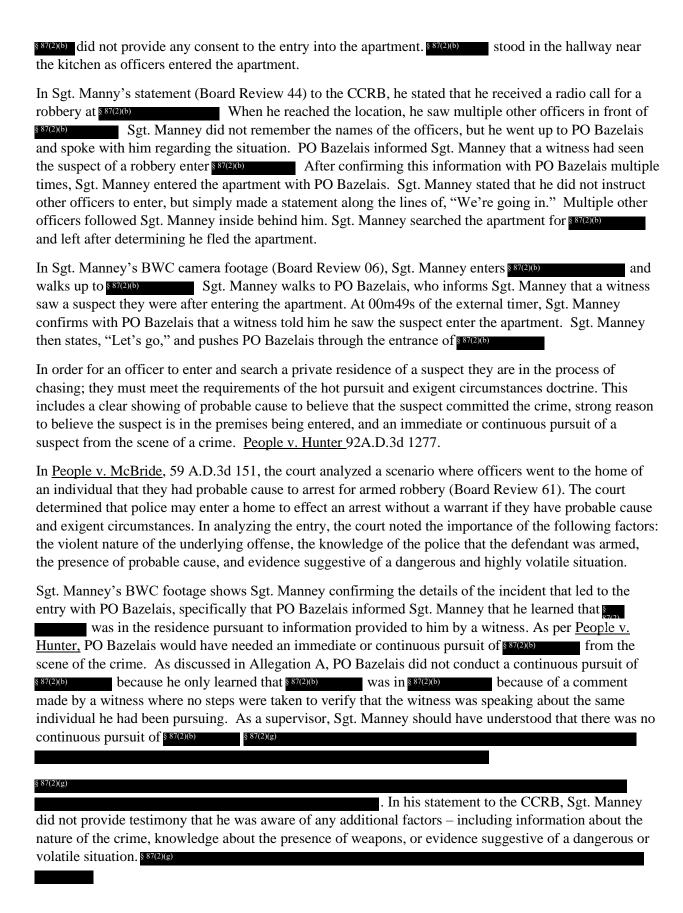
In <u>People v. Yoneyama</u>, the court examined a case where an officer obtained a defendant's written and verbal permission to search a vehicle after the defendant disclosed the presence of drugs in his car and apartment. After his confession, an officer informed the defendant that if he did not consent to a search of the apartment, officers could obtain a search warrant and that the circumstances of the execution of the warrant could lead to the arrest of the defendant's father, who also lived in the apartment. The court held that the consent was not invalidated by the officer's advice to the defendant since the officer "had valid legal and factual grounds for making these statements, which were not threats to arrest [the] defendant's father, but warnings of a possible, less favorable alternative scenario." <u>People v. Yoneyama</u>, 128 A.D.3d 616 (Board Review 60).

In <u>Yoneyama</u>, the court determined that it was permissible for an officer to request permission to enter and search a location after informing the defendant that if consent was not provided, a search warrant would be obtained and that the execution of the warrant could lead to the arrest of another resident of the location. In <u>Yoneyama</u>, the officers were aware that the residence contained contraband due to voluntary, self-incriminating statements by the defendant. As such, the officer's statement constituted advice based upon valid, legal, and factual grounds and was not a threat to arrest. In contrast, PO Groth had no such belief about the presence of contraband. Although PO Groth attempted to couch the threat of arrest in a hypothetical, the hypothetical had no factual basis since there was no reason to believe that contraband was extant.

| Allegation (E) Abuse of Authority: Sgt. Frederick Manney entered §87(2)(b) |
|--|
| in Brooklyn. |
| Allegation (F) Abuse of Authority: Sergeant Frederick Manney searched [887(2)(b) |
| in Brooklyn. |
| It is undisputed that on August 18, 2019, at approximately 5:00pm, Sgt. Manney entered and searched in Brooklyn. \$87(2)(b) statement and Sgt. Manney's BWC footage |
| confirm the same account, namely that officers entered and solely searched the apartment for made no effort to search for contraband, and left after determining that \$87(2)(5) the field the apartment building. |
| According to \$87(2)(6) statement, Sgt. Manney arrived at the location while she was speaking with PO Bazelais. Sgt. Manney argued with \$87(2)(6) for approximately five minutes. He then gave the order to |

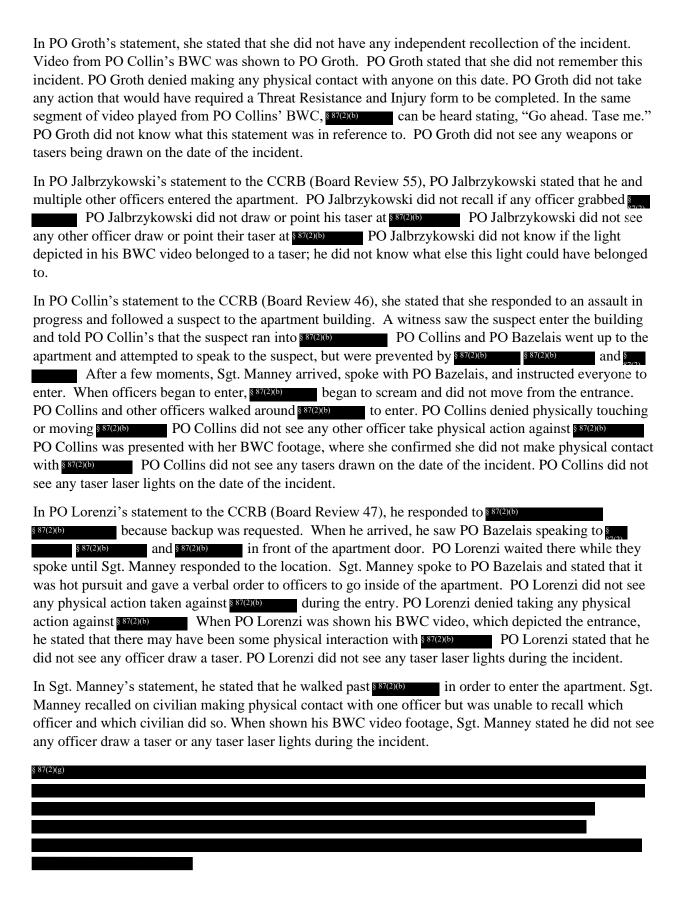
CCRB Case # 201907401

enter the apartment. Multiple officers followed PO Bazelais and Sgt. Manney into the apartment.



| Allegation (G) Force: Police Officer Toniann Groth used physical force agains (§ 87(2)(b) |
|--|
| Allegation (H) Force: Police Officer Michal Jalbrzykowski pointed a taser against 887(2)(6) |
| In \$87(2)(b) statement, she stated that multiple officers entered the apartment following Sgt. Manney. \$87(2)(b) stepped toward the hallway near the kitchen but was still able to see everything that happened in the doorway. \$87(2)(b) stood in the hallway with her phone in her hand as officers walked past her. PO Groth entered the apartment and grabbed \$87(2)(b) in a bear hug. As PO Groth grabbed \$100 per position of the phone in her hand as officers walked past her. PO Jalbrzykowski drew his taser and pointed it toward \$87(2)(b) stated that she saw a red dot on \$87(2)(b) body coming from the taser. Once \$87(2)(b) stated that \$87(2)(b) was pregnant, PO Jalbrzykowski holstered his taser and PO Groth removed \$87(2)(b) |
| missed two CCRB interview appointments and did not provide a statement to the CCRB. did not respond to any calls or emails and did not provide any statements to the CCRB. |
| described the officer that grabbed 37200 as a Hispanic female who was approximately 5'5" tall and had a chubby build. The investigation received officer pedigree sheets from PO Groth and PO Collins during the time of the interview. PO Groth's pedigree sheet listed her as a white female who was approximately 5'4" tall and approximately 200-pounds. PO Collin's pedigree sheet lister her as a white female who was 5'6" tall and approximately 130-pounds. Given this, the investigation determined PO Groth to be the subject officer in the above-mentioned allegation. |
| In PO Collins' BWC video, the entry of multiple officers was captured. At the 12m11s of the timer, officers can be seen walking past \$87(2)(b) to enter the apartment. The camera view is obstructed during the entrance due to low light and \$87(2)(b) and other officers in the way, but no physical interactions with \$87(2)(b) can be seen. \$87(2)(b) can be heard stating, "Tase me, go ahead," but no tasers or taser laser lights can be seen. |
| In PO Lorenzi's BWC video (Board Review 08), the entry of multiple officers was captured. At 00m26s of the external timer, officers are seen entering the apartment. The camera view is obstructed due to low light and other officers in the way, but no physical interactions can be seen with 887(2)(b) No tasers or taser laser lights can be seen. |
| In Sgt. Manney's BWC video his entry into the apartment is captured. At 01m02s of the external timer, Sgt. Manney walks past \$87(2)(b) Sgt. Manney faces away from \$87(2)(b) and no physical interactions can be seen. \$87(2)(b) can be heard stating, "Tase me, go ahead," but no taser or taser laser lights can be seen. |
| In PO Jalbrzykowski's BWC video (Board Review 09), at approximately 00m39s, [887(2)(6)] is heard stating, "Tase me, go ahead." No taser laser lights are seen. At 00m50s, a laser light can be briefly seen |

against a curtain of a window.



Civilian and Officer CCRB Histories

| • This is 48). | the first CCRB complaint to | which [87(2)(b) has been a | party (Board Review |
|------------------|--|--|---------------------------|
| , | the first CCRB complaint to 50). | which § 87(2)(b) has | been a party (Board |
| • This is Review | the first CCRB complaint to 49). | which § 87(2)(b) ha | s been a party (Board |
| | | member-of-service for 5 years and h which was not substantiated. § 87(2)(g) | as been a subject in 1 |
| • | · · | nember-of-service for 9 years and has s, none of which were substantiated. | · · |
| | | per-of-service for 5 years and has been which were substantiated. §87(2)(g) | en a subject in 1 CCRB |
| | complaints and 6 allegations, 201807314 had 2 substantia | a member-of-service for 5 years and of which 2 were substantiated. ted allegations of verbal discourtesy recommended Command Discipline astructions. | against PO |
| | Mediation, (| Civil, and Criminal Histories | |
| | November 9, 2020, the New Y | tte this complaint. York City Office of the Comptroller less complaint (Board Review 56). | nas no record of a Notice |
| § 87(2)(b) | | | |
| 3 3 (-)(-) | | | |
| | | | |
| Squad No.: | 12 | | |
| Investigator: | Shadman Khan | Investigator Shadman Khan | July 21, 2021 |
| | Signature | Print Title & Name | Date |
| Squad Leader: | Carlmais Johnson | IM Carlmais Johnson | July 26, 2021 |
| | Signature | Print Title & Name | Date |
| Reviewer: | | | |

CCRB Case # 201907401

Signature Print Title & Name Date